

REMARKS/ARGUMENTS

The Office Action has been carefully considered. In the Office Action, claims were rejected in the following manner.

1. Claims 11 and 32-34 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.
2. Claims 30, 32, 35 and 38 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.
3. Claims 1, 7, 11, 15, 26, 31, 33, 34, 36-37 and 39-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over MacInnis's US Publication No. 2003/0189982 (hereinafter "*MacInnis '982*").
4. Claims 21-23 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *MacInnis '982* in view of MacInnis's US Publication No. 2004/0066852 (hereinafter "*MacInnis '852*") further in view of Bublil et al's US Patent No. 6,704,361 (hereinafter "*Bublil*").

35 U.S.C. § 101 Rejections

Claims 11 and 32-34 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claim 32 has been canceled. Claims 11, 33 and 34 are currently amended. Applicant asserts that the objections to Claims 11, 33 and 34 are moot in light of current amendments. Accordingly, Applicant respectfully asserts that currently amended Claims 11, 33 and 34 are in condition for allowance.

35 U.S.C. § 112, First Paragraph Rejections

Claims 30, 32, 35 and 38 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 30, 32, 35 and 38 have been canceled and therefore rejection of Claims 30, 32, 35 and 38 is moot.

35 U.S.C. § 103(a) Rejections

Claims 1, 7, 11, 15, 26, 31, 33, 34, 36-37 and 39-40

Claims 1, 7, 11, 15, 26, 31, 33, 34, 36-37 and 39-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *MacInnis* '982 in view of *MacInnis* '852. Claims 1, 11, 15 and 26 now recite additional subject matter that is not taught or suggested by *MacInnis* '982 and *MacInnis* '852, either alone or in combination.

To establish a *prima facie* case of obviousness, an Office Action must demonstrate that all claimed elements are taught or suggested by proffered prior art references. Section 2143.03 of the MPEP requires the "consideration" of every claim feature in an obviousness determination. To render a claim unpatentable, however, the Office must do more than merely "consider" each and every feature for this claim. Instead, the asserted combination of cited references must also teach or suggest *each and every claim feature*. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish *prima facie* obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art).

The failure of an asserted combination to teach or suggest each and every feature of a claim remains fatal to an obviousness rejection under 35 U.S.C. § 103, despite any recent revision to the Manual of Patent Examining Procedure (MPEP). For example, in *In re Wada and Murphy*, Appeal 2007-3733, the BPAI specifically states that:

"When determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art." *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, "obviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Moreover, as the Supreme Court recently stated, "*there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.*" *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added))."

In sum, it remains well-settled law that obviousness requires **at least a suggestion of all of the elements of a claim**. See *In re Wada and Murphy*, citing *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) and *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)).

Applicant respectfully submits that neither *MacInnis* '852 nor *MacInnis* '982, alone or in combination, teaches or suggests "**suspending decoding the first slice at least one subsequent time, wherein the length of each subsequent suspension of time is reduced by another predetermined amount**" as in amended Claims 1, 11, 15 and 26.

For example, currently amended Claim 1 reads:

1. A computer-implemented method comprising:
decoding, by the computer, a first slice of a first frame of a video by performing a submethod comprising:
determining, in accordance with a slice header of the first slice, that the first slice has a decoding dependency on a second slice of a second frame of the video;
determining that said second slice has not been decoded;
suspending decoding the first slice for a first predetermined amount of time; then
determining after said first predetermined amount of time that said second slice has not been decoded; then
suspending decoding the first slice at least one subsequent time, wherein the length of each subsequent suspension of time is reduced by another predetermined amount; then; then
determining that said second slice has been decoded; and
transforming said first slice from an encoded state to a decoded state; and
decoding, by the computer, said second slice;
wherein said first and second slices each comprise a plurality of macroblocks that are respectively selected from said first and second frames of the video.

Applicant has thoroughly reviewed *MacInnis* '982 and *MacInnis* '852 and cannot find reference to **"suspending decoding the first slice at least one subsequent time, wherein the length of each subsequent suspension of time is reduced by another predetermined amount"** as in currently amended independent Claims 1, 11, 15 and 26.

Moreover, the elements, "determining after said first predetermined amount of time that said second slice has not been decoded; then suspending decoding the first slice for a second predetermined amount of time, said second predetermined amount of time being shorter than said first predetermined amount of time" as recited in now canceled Claims 30, 32, 35 and 38 were not rejected by the Office Action in light of any cited prior art, either alone or in combination. The current amendments to Claims 1, 11, 15 and 26 add elements analogous to those in Claims 30, 32, 35 and 38.

The Examiner is directed to the specification at least at page 11, lines 3-9, which read: "For the embodiment, **the period of suspension is a predetermined amount of time, and the length of each subsequent suspension is reduced by another predetermined amount.**" Those of ordinary skill in the art would understand that such a disclosure provides support for the presence of the above cited claim elements that have been added to currently amended Claims 1, 11, 15 and 26. Applicants therefore respectfully submit that currently amended Claims 1, 11, 15 and 26 are in condition for allowance.

Additionally, Applicant respectfully submits that Claims 7, 31, 33, 34, 36-37 and 39-40 are allowable by dependency. Accordingly, Applicants respectfully request that Claims 1, 7, 11, 15, 26, 31, 33, 34, 36-37 and 39-40 are in condition for allowance.

Claims 21-23 and 25

Claims 21-23 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *MacInnis* '982 in view of *MacInnis* '852 further in view of *Bublil*. Applicant respectfully submits that *Bublil*, alone or in combination with either or both *MacInnis* references, fails to remedy any of the defects in the *MacInnis* references discussed above. Specifically, Claims 1, 11, 15 and 26 now recite additional subject matter that is not taught or suggested *MacInnis* '982, *MacInnis* '852, and *Bublil*, either alone or in combination, and Claims 21-23 and 25 are therefore allowable at least by dependency. Accordingly, applicants respectfully request that Claims 21-23 and 25 be allowed to issue.

CONCLUSION

For at least the reasons above, Applicant respectfully submits that all pending claims are allowable and request that the Examiner permit these claims to proceed to issuance. Although additional arguments are believed to exist for distinguishing the cited documents, the arguments presented are believed sufficient to address the Examiner's rejections. Likewise, failure of the Applicant to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing arguments, and it is therefore not believed necessary to respond to every position taken by the Examiner with which Applicant does not agree.

The Examiner is respectfully requested to contact the undersigned at the telephone number below if there are any remaining questions regarding this application.

We believe the appropriate fees accompany this transmission. If, however, insufficient fee payment or fee overpayment occurs, the amount may be withdrawn or deposited from/to AXIOS Law Group's deposit account. The deposit account number is 50-4051.

Respectfully submitted,
AXIOS LAW GROUP

Date: June 3, 2009

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